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BOMBAY ACT No. III OF 1888[a].

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 14th September, 1888.)

An Act to consolidate and amend the law relating to the Municipal Government of the City of Bombay.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to

[a] Bom. Act III of 1888 has, so far as regards the jurisdiction, decisions, orders and other proceedings of Appellate Benches of Municipal Authorities, Presidency and other Magistrates, Courts of Small Causes and Judges of such Courts, been declared to be as valid as if it had been passed by the Governor General of India in Council—see Act XII of 1888, s. 1, printed in Vol. I of this Code, p. 263.

Bom. Act V of 1890 (Municipal Servants) is to be read with Bom. Act III of 1888—see Bom. Act V of 1890, s. 2 (2), *infra*.

the municipal government of the City of Bombay; It is enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be cited as the City of Bombay Municipal Act, 1888.

Extent. Except as is herein otherwise expressly provided, it extends only to the City of Bombay.

Repeal of enactments. 2. The enactments mentioned in Schedule A are repealed to the extent specified in the third column of the said schedule:

Provided that—

(*a*) all rules and bye-laws made, all notifications published, all orders issued and all licenses and permissions granted under any of the said enactments and still in force shall, so far as they are consistent with this Act, be deemed to have been respectively made, published, issued and granted hereunder; and

(*b*) all debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the municipal corporation before this Act comes into force shall be deemed to have been incurred, entered into or engaged to be done by, with or for the municipal corporation constituted under this Act; and

(*c*) all rates, taxes and sums of money due to the corporation when this Act comes into force shall be deemed to be due to the corporation under this Act; and

(*d*) all suits or other legal proceedings, civil or criminal, instituted or which might but for the passing of this Act have been instituted by or against the corporation or the Commissioner may be continued or instituted subject to the provisions of section 13 of Schedule R as if this Act had not been passed; and

(*e*) all references made in any Act of the Governor of Bombay in Council to any of the said enactments shall be read as if made to this Act or to the corresponding portion thereof.

Definition of terms. 3. In this Act, unless there be something repugnant in the subject or context,—

(*a*) "the city" means the City of Bombay:

(*b*) "the corporation" means the Municipal Corporation of the City of Bombay:

(*c*) "councillor" means a member of the corporation duly elected or appointed under this Act:-

(*d*) "the Commissioner" means the Municipal Commissioner for the City of Bombay appointed under section 54, and includes an acting Commissioner appointed under sub-section (*3*) of section 59 :

(*e*) "Deputy Commissioner" means a Deputy Municipal Commissioner appointed under section 55, and includes an acting Deputy Commissioner appointed under sub-section (*3*) of section 59 :

(*f*) "the Police Commissioner" means the Commissioner of Police of Bombay :

(*g*) "Justice" means a Justice of the Peace for the town of Bombay appointed under the provisions of the Justices of the Peace Act, 1869, [a] or of any other law [b] for the time being in force in this behalf : II of 1869 X of 1882.

(*h*) "fellow" means a fellow of the University of Bombay :

(*j*) "justices' election" and "fellows' election" mean, respectively, an election of a councillor by justices or by fellows :

(*k*) "licensed plumber" and "licensed surveyor" mean, respectively, a person licensed by the Commissioner for the purposes of this Act as a plumber or surveyor, under section 355 :

(*l*) "Small Cause Court" means the Court of Small Causes of Bombay :

(*m*) "owner," when used in reference to any premises, means the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let, and includes—

(*i*) an agent or trustee who receives such rent on account of the owner; and

(*ii*) an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any premises devoted to religious or charitable purposes; and

(*iii*) a receiver, sequestrator or manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of, the said premises ;

(*n*) a person is deemed "to reside" in any dwelling which he sometimes uses, or some portion of which he sometimes uses though, perhaps, not uninterruptedly, as a sleeping apartment :

and a person is not deemed to cease "to reside" in any such dwelling merely because he is absent from it, or has elsewhere another dwelling in which

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[a] Act II of 1869 was repealed by Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

[b] See now s. 23 of Act X of 1882.

he resides, if there is the liberty of returning to it at any time and no abandonment of the intention of returning thereto:

(*o*) the term "public securities" means securities of the Government of India and any securities guaranteed by Government, securities of the Bombay Port Trust, securities issued under this Act and any Bombay municipal debentures or other securities heretofore issued:

(*p*) "tax" includes any impost leviable under this Act:

(*q*) "vehicle" includes a carriage, cart, van, dray, truck, handcart and wheeled conveyance of any description capable of being used on the streets of the city:

(*r*) "land" includes land which is built upon or covered with water:

(*s*) "building" includes a house, out-house, stable, shed, hut and every other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatever:

(*t*) "waterwork" includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, main-pipe, culvert, engine and any machinery, land, building or thing for supplying or used for supplying water:

(*u*) "drain" includes a sewer, pipe, ditch, channel and any other device for carrying off sullage, excrementitious matter and polluted water or rain-water or subsoil water:

(*v*) "house-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom:

(*w*) "street" includes any highway and any causeway, bridge, viaduct, arch, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years; and, when there is a footway as well as a carriageway in any street, the said term includes both:

(*x*) "public street" means any street heretofore levelled, paved, metalled, channelled, sewered or repaired by the corporation, and any street which becomes a public street under any of the provisions of this Act:

(*y*) "private street" means a street which is not a public street:

(*z*) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight

smelling or hearing, or which is or may be dangerous to life or injurious to health or property:

(*aa*) "dangerous disease" means cholera and any endemic, epidemic or infectious disease by which the life of man is endangered:

(*bb*) "official year" means the year commencing on the first day of April:

(*cc*) "public holiday" means a day or other period of time on or during which, by an order of Government published in the Bombay Government Gazette, Government offices in the city are closed:

(*dd*) "sub-section" and "clause" denote, respectively, a sub-section or clause of the section in which the word occurs.

CHAPTER II.

THE MUNICIPAL CONSTITUTION.

Municipal Authorities.

Municipal authorities charged with execution of this Act.

4. The municipal authorities charged with carrying out the provisions of this Act are—

(A) a corporation;

(B) a standing committee;

(C) a municipal commissioner.

(*A*) THE MUNICIPAL CORPORATION.

Constitution of corporation.

5. (*1*) [a]The corporation shall consist of seventy-two councillors, as follows (namely):—

thirty-six elected at ward elections;

sixteen elected by justices;

two elected by fellows;

two elected by the Bombay Chamber of Commerce;

sixteen appointed by Government.

(*2*) The corporation shall, by the name of "The Municipal Corporation of the City of Bombay," be a body corporate and have perpetual succession and a common seal and by such name may sue and be sued.

Terms of Office of Councillors; Casual Vacancies, etc.

Day on which councillors are to come into office.

6. [b] (*2*) Councillors selected or appointed to succeed retiring councillors

[a] Portion repealed by Act XVI of 1895 is omitted.

[b] Sub-section (*1*), repealed by Act XVI of 1895, is omitted.

shall come into office on the day for the retirement of the councillors whom they are to succeed.

Day for retirement of councillors.

7. All members of the corporation constituted as aforesaid shall retire from office at noon on the first day of April three years after they take office, which day is in this Act referred to as the day for retirement.

Re-eligibility of persons ceasing to be councillors.

8. Any person who ceases to be a councillor shall, unless disqualified, be re-eligible.

Casual vacancies how to be filled up.

9. In the event of non-acceptance of office by a person elected or appointed to be a councillor, or of the death, resignation or disqualification of a councillor, or of his becoming incapable of acting previous to the day for retirement, there shall be deemed to be a casual vacancy in the office, and such vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or appointed would have been entitled to hold it if the vacancy had not occurred.

Publication of names of councillors in the Bombay Government Gazette.

10. The names of all persons elected or appointed to be councillors shall be published by the Commissioner in the Bombay Government Gazette.

Qualifications and Disqualifications of Voters and Councillors.

Qualification of voters at ward elections.

11. (*1*) A person shall not be entitled to vote at a ward election unless he is enrolled in the municipal election roll as a voter of the ward for which such election is held.

(*2*) A person shall not be entitled to be enrolled in the municipal election roll as a voter of any ward, unless such person—

(*a*) resides or is the owner of some building or land in that ward; and

(*b*) has attained the age of twenty-one years; and unless such person, either—

(*c*) has been assessed to the qualifying tax for the half-year from the first day of April to the thirtieth day of September last preceding the preparation of the roll, at the rate of not less than thirty rupees per annum; or

(*d*) is a graduate of some university in British India or in the United Kingdom.

(*3*) In clause (*c*) "the qualifiying tax" means either the general tax or the tax on vehicles and animals, other than vehicles and animals plying for hire or kept for the purpose of being let for hire, levied according to the provisions hereinafter contained, or the aggregate of both the said taxes.

Qualification of voters at justices' elections.

12. (*1*) A person shall not be entitled to vote at a justices' election unless he is at the time of such election a justice and is enrolled as a justice in the municipal election roll.

(*2*) A person shall not be entitled to be enrolled in the municipal election roll as a justice unless he resides in the city.

Qualification of voters at fellows' elections.

13. (*1*) A person shall not be entitled to vote at a fellows' election unless he is at the time of such election a fellow and is enrolled as a fellow in the municipal election roll.

(*2*) A person shall not be entitled to be enrolled in the municipal election roll as a fellow unless he resides in the city.

Qualification for election as a councillor at a ward election.

14. (*1*) A person shall not be qualified to be elected at a ward-election to be a councillor unless he is enrolled in the municipal election roll as a voter of some ward, or unless he is at the time of the election a justice or a fellow and is enrolled as a justice or as a fellow in the municipal election roll:

(*2*) Provided that—

(*a*) if a joint stock company is enrolled in the said roll as a voter of a ward, such enrolment shall not be deemed to qualify any person to be elected to be a councillor;

(*b*) if the name of any other company or of a firm is enrolled in the said roll, any one person duly authorized by power-of-attorney to represent such company or firm shall be deemed to be qualified to be elected a councillor at a ward-election.

Qualification for election as a councillor at an election by justices, or by fellows, or by the Chamber of Commerce.

15. A person shall not be qualified to be elected to be a councillor at a justices' election or a fellows' election, or an election by the Bombay Chamber of Commerce, unless he is at the time of the election a justice, or a fellow, or a member of the said Chamber, as the case may be, and unless, in the case of a justice or a fellow, he is enrolled as such in the municipal election roll.

Disqualifications for being a councillor.

16. (*1*) A person shall be disqualified for being elected or appointed and for being a councillor if such person—

(*a*) is of the female sex; or

(*b*) has been sentenced by any Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and if and so long as such person's disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby

empowered to make, if he shall think fit, in this behalf; or if and while such person—

(*c*) is an uncertificated bankrupt or an undischarged insolvent; or

(*d*) is the Commissioner or a Deputy Commissioner or a municipal officer or servant, or a licensed surveyor or plumber; or

(*e*) is the Chief Judge of the Small Cause Court or is acting in that capacity; or

(*f*) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by or on behalf of, the corporation.

(2) But a person shall not be so disqualified or be deemed to have any share or interest in such a contract or employment by reason only of his having any share or interest in—

(*g*) any lease, sale or purchase of land or any agreement for the same; or

(*h*) any agreement for the loan of money or any security for the payment of money only; or

(*i*) any newspaper in which any advertisement relating to the affairs of the corporation is inserted; or

(*k*) any joint stock company which shall contract with or be employed by the Commissioner on behalf of the corporation; or

(*l*) the occasional sale to the Commissioner on behalf of the corporation, to a value not exceeding in any one official year two thousand rupees, of any article in which he regularly trades.

(3) Nor shall the Police Commissioner be deemed to be so disqualified by reason of his office merely.

A person becoming disqualified to cease to be a councillor.

17. Any councillor who—

(*a*) becomes disqualified for being a councillor for any reason mentioned in the last preceding section, or

(*b*) absents himself during three successive months from the meetings of the corporation, except from temporary illness or other cause to be approved by the corporation,

shall cease to be a councillor, and his office shall thereupon be vacant.

Questions as to disqualifications to be determined by Chief Judge of the Small Cause Court.

18. Whenever it is alleged that any councillor has become disqualified for office for any reason aforesaid, and such councillor does not admit the allegation, or whenever any councillor is himself in doubt whether or not he has become disqualified for office, such councillor or any other councillor may, and the Commissioner, at the request of the corporation, shall, apply to the Chief

Judge of the Small Cause Court; and the said Chief Judge, after making such inquiry as he deems necessary, shall determine whether or not such councillor has become disqualified for being a councillor, and his decision shall be conclusive.

Municipal Election Roll.

Preparation and revision of list of persons qualified to vote.

19. (*1*) [a]On or before each first day of October, [a] the Commissioner shall prepare a list of persons appearing to be entitled to be enrolled in the municipal election roll as voters of wards, justices and fellows respectively.

(*2*) The arrangement of the list shall be alphabetical and it shall be in three parts, namely, for voters of wards, justices and fellows, respectively, and may be otherwise sub-divided as the Commissioner shall from time to time deem convenient.

(*3*) The list of voters of wards shall be made in separate lists, called ward lists, one for each ward into which the city is divided as hereinafter provided, containing the names of persons entitled to be enrolled as voters of that ward. The ward lists and the list of justices and the list of fellows shall be collectively deemed to constitute one list.

(*4*) In preparing the ward lists the Commissioner shall enter therein the names of the persons who have been assessed to the qualifying tax, whether such persons be individuals, companies, firms, undivided families or other associations or bodies of individuals, and shall also enter the names of persons who have been assessed as the trustees of any building or land.

(*5*) If individual members of any company, firm, undivided family or other association or body so entered, or if trustees whose names are so entered, have been assessed on their own separate account to the qualifying tax, the Commissioner shall enter their names in the list separately.

(*6*) The Commissioner shall publish the list, prepared as aforesaid, by causing a printed copy thereof to be fixed for public inspection in a conspicuous position on every Municipal Office on or before the ninth day of October and to be kept so fixed during the remaining days of October. Printed copies thereof shall also be delivered to any person requiring the same, on payment of such reasonable fee for each copy as shall from time to time be prescribed by the Commissioner, with the approval of the standing committee, in this behalf.

(*7*) On or before each 10th day of October, the Commissioner shall give notice by advertisement in the local newspapers of the publication of the said list and of the place at which and the fee for which copies of it may be obtained.

(*8*) Every person whose name is not in the list so published and who

[a] Portion repealed by Act XVI of 1895 is omitted.

claims to have it inserted therein shall, on or before the first day of November, give notice in writing of his claim to the Commissioner.

(*9*) Every person whose name is in the list may object to any other person as not being entitled to have his name retained therein. Every person objecting shall, on or before the first day of November, give to the Commissioner and also give to the person objected to, or leave at his last known place of abode, notice in writing of the objection and of the nature thereof.

(*10*) If the name of any person is entered as a voter in more than one ward list, he may, by notice in writing, which he shall give to the Commissioner on or before the first day of November, choose for which one of those wards he shall be entitled to vote.

(*11*) If the name of an undivided family or of any association or body of individuals, other than a company or firm, has been entered in the list, or if the names of trustees, being two or more in number, of any building or land have been so entered, any one individual person duly authorized in this behalf by the members of such family, association or body or by such trustees may, by notice in writing, which he shall give to the Commissioner on or before the first day of November, apply that his name be entered in the list as the representative, for the purposes of the list, of such family, association, body or trustees.

(*12*) The Commissioner shall, on some one of the first ten days of November, revise the list prepared as aforesaid.

(*13*) He shall for this purpose hear the claims, objections and applications which have been duly made as aforesaid in open office, giving three clear days' notice of the holding of the inquiry by written notice served upon each claimant, person objecting and applicant and upon each person objected to, and also fixed on some conspicuous place in every municipal office.

(*14*) The Commissioner shall insert in the list the name of every person who has duly claimed to have his name inserted therein and whose claim is proved to the Commissioner's satisfaction.

(*15*) The Commissioner shall expunge from the list the name of every person proved to his satisfaction to be dead and may correct any clerical error or omission in the list.

(*16*) Subject as aforesaid, the Commissioner shall retain in the list the name of every person to whom objection has not been duly made.

(*17*) The Commissioner shall also retain therein the name of every person objected to, unless the objector appears by himself or by some other person duly authorized by him in this behalf in support of the objection.

(*18*) Where the objector so appears, the Commissioner shall require proof of the qualification of the person objected to, and if within such reasonable time as the Commissioner, subject to the provision of sub-section (22), fixes in this behalf, such person's qualification is not proved to his satisfaction, shall expunge his name from the list.

(*19*) The Commissioner shall not retain the name of one person in more than one ward list. If any person whose name has been entered in more than one ward list has not chosen as aforesaid, the Commissioner shall determine for which one of those wards he shall be entitled to vote. But this shall not be deemed to prevent the names of individual members of companies, firms, undivided families or other associations or bodies, or of persons, who are trustees, which have been separately entered in the list under sub-section (5), from being retained on the list for one ward each, in addition to the names of the companies, firms, undivided families or other associations or bodies of which they are, respectively, members, or in addition to the names of the trustees, as the case may be, if such individuals or persons are entitled on their own separate account to have their names so retained.

(*20*) The name of one person may be separately entered and retained by the Commissioner in the list as a voter of a ward and as a justice and as a fellow, or in any two of those capacities, if such person is entitled to be enrolled in the municipal election roll in all or both such capacities, as the case may be.

(*21*) If no individual person has applied as aforesaid to have his name entered in the list as the representative of an undivided family or other association or body, not being a company or a firm, or of two or more trustees of any building or land, the Commissioner shall determine what individual person shall be entitled to represent such undivided family, or other association or body, or trustees, and enter his name in the list as the person qualified to vote or to be elected, in behalf of the undivided family or other association or body, or of the trustees, as the case may be.

(*22*) The Commissioner may adjourn the hearing of any matter under this section from time to time, so that no adjourned hearing be held after the tenth day of November.

Appeals against Commissioner's orders on revision of the list by whom to be heard.

20. In the event of the Commissioner rejecting any claim, objection or choice duly made under the last preceding section, the claimant or objector or person aggrieved may, at any time within five days after such rejection, apply to the Chief Judge of the Small Cause Court, and the said Chief Judge shall, within twenty days after receipt of such application and after such inquiry as he deems

necessary, make such order for correcting the list or otherwise as shall seem to him fit, and his order shall be conclusive.

Completion of the municipal election roll.

21. (*1*) When the list prepared as aforesaid has been revised by the Commissioner and corrected in compliance with any order passed in this behalf by the Chief Judge aforesaid, a printed copy thereof, signed by the Commissioner, shall be the municipal election roll and shall come into operation on the 10th of December and continue in operation for the twelve months beginning on that day.

(*2*) The municipal election roll shall be divided and arranged in the same manner as the list from which it is made up. The separate ward lists, when completed, as hereinbefore provided, shall be called ward rolls. The ward rolls and the justices' roll and the fellows' roll shall collectively be deemed to constitute the municipal election roll.

(*3*) Every person enrolled in the municipal election roll shall be deemed to be entitled to vote at a ward election or as a justice or fellow, as the case may be, provided, in the case of a justice or a fellow, that such person be still a justice or fellow, as the case may be, at the time of the election; and every person not enrolled in the said roll shall be deemed to be not entitled so to vote.

(*4*) Printed copies of the municipal election roll shall be delivered to any person requiring the same, on payment of such reasonable fee for each copy as shall from time to time be prescribed by the Commissioner, with the approval of the standing committee, in this behalf.

(*5*) If a municipal election roll is not made in due time, the municipal election roll in operation immediately before the time appointed for its preparation shall continue in operation until the new roll is made.

Elections of Councillors.

Dates of elections.

22. (*1*) General elections of councillors shall be fixed by the Commissioner subject to the provisions of section 23, to take place triennially on such days in the months of January and February as he shall think fit.

(*2*) [*Repealed by Act XVI of 1895.*]

(*3*) Elections to fill casual vacancies shall be fixed by the Commissioner to take place on such days as he shall think fit as soon as conveniently may be after the occurrence of the vacancies.

Order in which general elections are to be held.

23. The dates for all general elections shall be fixed in the following order and with the following intervals, namely:—

first, the ward elections shall be fixed to take place simultaneously for all the wards;

secondly, the day for election by the Bombay Chamber of Commerce shall be fixed at an interval not exceeding twenty-one days after the day fixed for the ward election;

thirdly, the day for the justices' election shall be fixed at an interval not exceeding seven days after the day fixed for the election by the Bombay Chamber of Commerce;

fourthly, the day for the fellows' election shall be fixed at an interval not exceeding fourteen days after the day fixed for the justices' election.

Division of the city into wards for purposes of elections.

24. (*1*) For the purposes of elections, the city shall be divided into wards, and the number of councillors to be elected at ward elections shall be apportioned over the said wards.

(*2*) The corporation may, with the sanction of Government, from time to time alter the number and boundaries of the wards and re-apportion the councillors to be elected at ward elections among the wards, but not so as that any such alteration or re-apportionment shall first have effect at a ward election to fill a casual vacancy.

(*3*) Unless and until they are so altered or re-apportioned, the number and respective boundaries of the wards and the number of councillors to be elected for each ward shall be as specified in Schedule B.

Notice to be given of days fixed for ward elections and justices' elections.

25. Fifteen days at least before the day fixed for a ward election or for a justices' election, notice of such election shall be given by the Commissioner. Such notice shall be given by advertisement in the Bombay Government Gazette and in the local newspapers, and, in the case of a ward election, by posting placards in conspicuous places in the ward for which such election is to take place.

Candidates at ward elections and justices' elections, must be nominated. Provisions regarding nominations.

26. (*1*) Candidates for election at a ward election or a justices' election must be duly nominated in writing in accordance with the provisions hereinafter contained.

(*2*) With respect to such nominations, the following provisions shall have effect, namely:—

(*a*) The Commissioner shall provide printed forms of nomination-papers, and any person entitled to vote at the election shall be supplied, at any time within seven days previous to the day fixed for the election, with as many such forms as may be required, free of charge;

(*b*) Each nomination-paper must state the name, abode and description of the candidate in full, and be subscribed by two persons entitled to vote at the election as proposer and seconder;

(*c*) Every nomination-paper subscribed as aforesaid must be delivered at the Commissioner's office before five o'clock in the afternoon of the day fixed for the election ;

(*d*) Each candidate must be nominated by a separate nomination-paper, but any person entitled to vote at the election may subscribe as many nomination-papers as there are vacancies to be filled, but no more ;

(*e*) If any person nominated—

(*i*) is not enrolled in the municipal election roll as voter of a ward or as a justice or as a fellow, or

(*ii*) although enrolled in the municipal election roll as a justice or a fellow, has ceased to be a justice or a fellow, or

(*iii*) is disqualified for being a councillor for any of the reasons set forth in section 16,

the Commissioner shall declare such person's nomination invalid ;

(*f*) If there is no valid nomination, it shall be deemed that no councillor has been elected and proceedings for filling the vacancy or vacancies shall be taken under section 34 ;

(*g*) If the number of valid nominations is less than that of the vacancies, the persons nominated shall be deemed to be elected, and for the remaining vacancy or vacancies it shall be deemed that no councillor has been elected and proceedings for filling such vacancy or vacancies shall be taken under section 34 ;

(*h*) If the number of valid nominations is the same as that of the vacancies, the persons nominated shall be deemed to be elected ;

(*i*) If the number of valid nominations exceeds that of the vacancies, the election of councillors shall be made from among the persons nominated, and such election shall be termed "a contested election" ;

(*k*) If, when two or more ward elections are held simultaneously for different wards, any person is deemed, under clause (*g*) or clause (*h*), to be elected a councillor for more than one ward, he shall, within twenty-four hours after receipt of written notice thereof from the Commissioner, choose, by writing signed by him and delivered to the Commissioner, or, in his default, the Commissioner shall, when the time for choice has expired, declare for which one of those wards he shall serve. The choice or declaration so made shall be conclusive, and such person's nomination for the ward

or wards for which he is not to serve shall be deemed to be null and void;

(*l*) If, when ward elections are held as aforesaid, any person who is deemed, under clause (*g*) or clause (*k*), to be elected a councillor for any one or more wards, has also been duly nominated for any one or more wards for which the number of nominations exceeds that of the vacancies, he shall within twenty-four hours after receipt of written notice thereof from the Commissioner choose, by writing signed by him and delivered to the Commissioner, whether he shall serve for the ward or for any one of the wards for which he is elected, or will stand as a candidate at the contested election or elections for the other ward or wards. In his default, the Commissioner shall, when the time for choice has expired, declare that he shall serve for the ward or for some one of the wards for which he is elected, and his nomination for any other ward shall be deemed to be null and void. If such person chooses, by writing as aforesaid, to stand as a candidate at the contested election or elections, his nomination for the ward or wards for which he is elected shall be deemed to be null and void. Any choice or declaration made under this clause shall be conclusive.

Poll to be taken when a ward election or a justices' election is contested.

27. (*1*) When a ward election or a justices' election is contested, a poll shall be taken seven days after the day fixed for the election. At such poll, the municipal election roll which was in operation on the day fixed for the election shall be deemed to be the roll to which reference must be made for the purposes of the election.

Names of candidates validly nominated to be published.

(*2*) At least four days before the day of the poll, the Commissioner shall cause the names of all the persons validly nominated, with their respective abodes and descriptions and the names of the persons subscribing their respective nomination-papers as proposers and seconders, to be published in the Bombay Government Gazette and in the local newspapers.

Provisions respecting contested ward elections.

28. With respect to contested ward elections, the following provisions shall have effect, namely:—

(*a*) One or more polling-places shall be provided by the Commissioner for each ward, as he thinks fit, and the Commissioner may appoint such and so many polling-officers and other persons to assist at the poll as he shall think fit, and, with the approval of the standing

committee, pay them such reasonable remuneration for their services as he shall determine ;

(*b*) The poll shall commence at nine o'clock in the forenoon and close at six o'clock in the afternoon of the same day ;

(*c*) The Commissioner shall have voting-papers, in such forms as he from time to time thinks fit, printed, and the said forms shall be supplied to persons entitled to vote, on any of the four days (not being a Sunday or a public holiday) previous to the day of the poll at the municipal office and on the day of the poll at each polling-place, free of charge ;

(*d*) At each election for any ward, every voter shall be entitled to a number of votes equal to the number of councillors to be elected at such election for such ward, and may give all such votes to one candidate, or may distribute them among the candidates, as he thinks fit ;

(*e*) No votes shall be received for any candidate whose name has not been published by the Commissioner, under sub-section (*2*) of section 27, as having been validly nominated ;

(*f*) No vote shall be received from any person whose name is not enrolled in the ward-roll as a voter of the ward for which the election is being held ;

(*g*) When the name in the ward-roll is that of a joint-stock company, a vote on behalf of the said company may be received from its secretary, agent or manager ;

(*h*) When the name in the ward-roll is that of any company, other than a joint-stock company, or of a firm, a vote on behalf of such company or firm may be received from any person who produces to the polling-officer a power-of-attorney authorizing him to represent the said company or firm for the purpose of the election ;

(*i*) The polling-officer shall, if required by two persons whose names are enrolled in the ward-roll, or by a candidate, put to any person offering to vote, at the time of his presenting his voting-paper, but not afterwards, the following questions, or either of them :—

(*i*) Are you the person enrolled in the ward-roll as follows (*read the whole entry from the roll*) ?

(*ii*) Have you already voted at the present election (*add, in case of simultaneous elections in two or more wards*, or at any election being at present held for any other ward)?

(*k*) A person to whom either of the said questions is put shall be bound to answer the same truly. His voting paper shall not be received until he has answered the question or questions so put to him ;

(*l*) Except as aforesaid, no inquiry shall be permitted at a ward election as to the right of any person to vote thereat ;

(*m*) The answers or answer made by any person to whom the said questions or either of them are or is put shall be recorded by the polling-officer under his signature in writing, and such writing, together with the said person's voting-paper, shall be forwarded by the polling-officer, at the close of the poll, separately from the voting-papers of the persons whose right to vote has not been challenged as aforesaid ; and the polling-officer shall direct the parties to any such challenge to appear, within three days after the poll, before the Commissioner ;

(*n*) The name of the person, or of every person for whom a voter votes, and all other details prescribed by the form of the voting-paper, shall be written legibly, in English, in the voting-paper, and the voter shall sign, or attach his mark to, the voting-paper in the presence of the polling-officer; and the said officer shall attest each such signature or mark and shall attach consecutive numbers to each of the voting-papers presented to him ;

(*o*) After the close of the poll, the polling-officer shall forward all the voting-papers presented to him, in one or more packets duly secured and sealed, to the Commissioner, together with a list of the cases, if any, in which a person's right to vote has been challenged ;

(*p*) The Commissioner shall, as soon as may be, hear and decide upon all challenges and other objections, if any, to or regarding the poll made to him in writing not later than five o'clock in the afternoon of the day after the poll, and cause lists to be prepared of the valid votes given for each candidate. The said lists and the voting-papers on which they are based shall be kept in the Commissioner's office, unless called for in the meantime by the Chief Judge of the Small Cause Court fort he purpose of any appeal, for three months ;

(*q*) The person, or where there is more than one councillor to be elected, the persons not exceeding the number of councillors to be elected who have the greatest number of valid votes, shall be deemed to be elected ;

(*r*) Where an equality of such votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Commissioner in such manner as he shall determine;

(*s*) If a candidate is elected councillor for more than one ward, he shall, within twenty-four hours after receipt of written notice thereof from the Commissioner, choose, by writing signed by him and delivered to the Commissioner, or, in his default, the Commissioner shall when the time for choice has expired, declare for which of those wards he shall serve, and the choice or declaration shall be conclusive;

(*t*) When any such choice or declaration has been made, the votes recorded for the candidate aforesaid in any ward for which he is not to serve shall be deemed not to have been given, and the candidate, if any, who, but for the said votes, would have been declared elected for such ward, shall be deemed to have been duly elected for the same.

Provisions regarding justices' contested elections.

29. With respect to justices' contested elections the following provisions shall have effect, namely :—

(*a*) The poll shall be taken at a meeting of the justices, of the time and place of which reasonable notice shall be given by the Commissioner by advertisement in the Bombay Government Gazette and in the local newspapers, and which shall be presided over by such one of the justices present, as may be chosen by the meeting to be chairman for the occasion;

(*b*) Every person entitled to vote may vote by signing and personally delivering, at the meeting held in accordance with the notice given under clause (*a*), to the chairman of such meeting, a voting-paper containing the name in full of the candidate or of each of the candidates for whom he votes;

(*c*) Every voter shall be entitled to vote for any number of candidates not exceeding the number of vacancies;

(*d*) No vote shall be received for any candidate whose name has not been published by the Commissioner, under sub-section (*2*) of section 27, as having been validly nominated;

(*e*) No vote shall be received from any person whose name is not enrolled

in the justices' roll or who is not on the day of the meeting a justice;

(*f*) The chairman of the meeting, as soon as all the voting-papers of the justices present and voting have been delivered to him, shall close the meeting and shall, as soon as may be, cause lists to be prepared of the valid votes given for each candidate. The said lists, and the voting-papers on which they are based, shall be delivered by the chairman of the meeting to the municipal secretary, by whom, unless they are called for in the meantime by the Chief Judge of the Small Cause Court for the purpose of any appeal, they shall be kept for three months;

(*g*) The person, or, where there is more than one councillor to be elected, the persons not exceeding the number of councillors to be elected, who have the greatest number of valid votes shall be deemed to be elected;

(*h*) In case of an equality of such votes, the chairman of the meeting shall have a second or casting vote;

(*j*) The chairman of the meeting shall make a return in duplicate to the Commissioner setting forth the name in full of every person elected at the meeting.

Proceedings at fellows' elections.

30. (*1*) Elections of councillors by fellows shall be made, subject to the provisions of section 15, in such manner as shall from time to time be determined at a meeting of the senate of the University of Bombay convened in accordance with the rules at the time in force in this behalf: Provided that no vote shall be received from any person whose name is not enrolled in the fellows' roll or who is not on the day of the meeting a fellow.

(*2*) The Registrar of the University shall make a return in duplicate to the Commissioner setting forth the name, abode and description of every person so elected.

Proceedings at elections by the Chamber of Commerce.

31. (*1*) Elections of councillors by the Bombay Chamber of Commerce shall be made by the members for the time being of the said Chamber, subject to the provisions of section 15, in such manner as shall from time to time be determined at a meeting of the said Chamber convened in accordance with the rules at the time in force in this behalf.

(*2*) The Secretary to the said Chamber shall make a return in duplicate to the Commissioner setting forth the name in full of every person so elected.

Declaration of results of elections.

32. (*1*) The result of every election shall be declared by fixing, as soon as may be after the election, in some conspicuous place on the chief munici-

pal office; a notice certifying the names of the persons, if any, elected and, in the case of a contested election, the number of votes recorded for each candidate.

(*2*) The said notice shall be signed, in the case of a ward-election and in the case of a justices' election which is not contested, by the Commissioner, in the case of a contested justices' election, by the chairman of the meeting of justices at which the election took place, in the case of a fellows' election, by the Registrar of the University of Bombay, and in the case of an election by the Bombay Chamber of Commerce, by the Secretary of that Chamber.

Election petitions to be heard and disposed of by Chief Judge of the Small Cause Court.

33. (*1*) If the qualification of any person declared to be elected for being a councillor is disputed, or if the validity of any election is questioned, whether by reason of the improper rejection by the Commissioner of a nomination or of the improper reception or refusal of a vote, or for any other cause, any person enrolled in the municipal election roll may, at any time, within eight days after the result of the election has been declared, apply to the Chief Judge of the Small Cause Court.

(*2*) If the said Chief Judge, after making such inquiry as he deems necessary, finds that the election was a valid election and that the person whose election is objected to is not disqualified, he shall confirm the declared result of the election. If he finds that the election was not a valid election, he shall set it aside, so far as concerns the person whose election is objected to. If he finds that there is no objection to the validity of the election-proceedings, but that the person whose election is objected to is disqualified for being a councillor, he shall declare such person's election null and void, and direct that the candidate, if any, in whose favour the next highest number of votes was recorded after the said person, or after all the persons who were returned as elected at the said election, shall be deemed to have been elected.

(*3*) The said Chief Judge's order shall be conclusive.

(*4*) If he sets aside an election or if, when he declares a person who has been declared elected disqualified for being a councillor, there is no other candidate who can be deemed to have been elected, proceedings for filling the vacancy or vacancies shall be taken under section 34.

(*5*) Every election not called in question in accordance with the foregoing provisions shall be deemed to have been to all intents a good and valid election.

Procedure

34. (*1*) If from any cause no councillor is elected at any general election,

if election fails.

[a]the retiring councillor or councillors shall, if willing to serve, be deemed to be re-elected.

(2) If, in any such case, the retiring councillor is not willing to serve, or some of the retiring councillors are willing to serve and some are not, or

if, in the case[a] of an election to fill a casual vacancy, no councillor is elected, or

if, in the case of any election, an insufficient number of councillors are elected,

the Commissioner shall without delay inform the corporation of the circumstances, and thereupon the corporation, so far as it is constituted, may appoint a duly qualified person to fill the vacancy, or each vacancy, as the case may be, and, if the corporation shall fail within fifteen days after receipt of such information to appoint a person as aforesaid, the Commissioner shall appoint another day for holding a fresh election.

(3) A fresh election held under this section shall be held subject in all respects to the same provisions as if it were an election to fill a casual vacancy.

Appointment of Councillors by Government.

Government appointments of councillors when to be made.

35. (1) [*Repealed by Act XVI of 1895.*]

(2) [a]Appointments[b] of councillors by Government to succeed retiring councillors shall be made triennially not less than seven days before the day for retirement.

(3) Appointments of councillors by Government to fill casual vacancies shall be made as soon as conveniently may be after the occurrence of such vacancies.

Proceedings of the Corporation.

Provisions regulating the corporation's proceedings.

36. The corporation shall meet for the despatch of business and shall from time to time make such regulations with respect to the summoning-notice, place, management and adjournment of such meetings, and generally with respect to the mode of transacting and managing the business of the corporation as they think fit subject to the following conditions:

(*a*) there shall be one ordinary meeting in each month; the ordinary meeting in the month of March shall be held not later than on the twentieth day of that month ;

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[a] Portion repealed by Act XVI of 1895 is omitted.
[b] "Appointments" was substituted for "appointment" by Act XVI of 1895.

(*b*) the first meeting in the month of April after general elections shall be held as early as conveniently may be in the said month on a day and at a time and place to be fixed by the Commissioner, and if not held on that day shall be held on some subsequent day to be fixed by the Commissioner;

(*c*) the day, time and place of meeting shall in every other case be fixed by the president of the corporation, or in the event of the office of president being vacant, or of the death or resignation of the president or of his ceasing to be a councillor, or of his being incapable of acting, by the chairman of the standing committee;

(*d*) the president of the corporation or, in any such event as aforesaid, the chairman of the standing committee may, whenever he thinks fit, and shall, upon a written requisition signed by not less than sixteen councillors or by not less than four members of the standing committee, call a special meeting;

(*e*) every meeting shall be open to the public, unless a majority of the councillors present thereat decide by a resolution, which shall be put by the presiding authority, of his own motion or at the request of any councillor present, without previous discussion, that any inquiry or deliberation pending before the corporation is such as should be held in private, and provided that the presiding authority may at any time cause any person to be removed who interrupts the proceedings;

(*f*) if at any time during a meeting it shall be brought to the notice of the presiding authority that the number of councillors present falls short of twenty, inclusive of the presiding authority, the presiding authority shall adjourn the meeting to some other day, fixing such time and place for the same as he shall think convenient, and the business which remains undisposed of at such meeting shall be disposed of at the adjourned meeting or, if the latter meeting should be again adjourned, at any subsequent adjourned meeting, whether there be a quorum of twenty members present thereat or not;

(*g*) every meeting shall be presided over by the president, if he is present at the time appointed for holding the same and, if the office of president is vacant or if the president is absent, by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion;

(*h*) at least seven clear days' notice shall ordinarily be given of every meeting, other than an adjourned meeting, but in cases of urgency any such meeting may be called, except for the purpose of considering an annual budget-estimate, in pursuance of a written requisition signed by not less than four members of the standing committee, upon a notice of not less than three clear days; of adjourned meetings such previous notice shall be given as shall be practicable having regard to the period of the adjournment;

(*i*) every notice of a meeting shall specify the time and place at which such meeting is to be held and the business to be transacted thereat and shall be given by the municipal secretary by advertisement in the local newspapers and, except in the case of adjourned meetings or of meetings called upon a requisition of urgency, in the Bombay Government Gazette;

(*k*) any councillor who desires at any meeting to bring forward any business, or to make any substantive proposition, which is not already specified in the notice of such meeting, shall give written notice of the same to the municipal secretary at least three clear days before the day fixed for the meeting; and a supplementary announcement of the business or propositions, of which notice has been so given, shall be given by the said secretary in not less than one local daily newspaper not later than the day previous to the meeting;

(*l*) except at a meeting called on a requisition of urgency or at the discussion at any meeting of a budget-estimate, no business shall be transacted at any meeting other than the business specified in the notice published under clause (*i*) or urgent business not specified in the said notice which the standing committee or the Commissioner deem it expedient to bring before the meeting, and no substantive proposition shall be made or discussed which is not specified in the said notice or in the supplementary announcement, if any, published under clause (*k*), or which is not in support of the recommendation of the standing committee or of the Commissioner with reference to any urgent business brought by either of those authorities, respectively, before the meeting: Provided that no such urgent business as aforesaid shall be brought before any meeting, unless at least three-fourths of the councillors present at such meeting, such three-fourths being not less than fifteen in number, assent to its being brought forward thereat;

(*m*) at a meeting called on a requisition of urgency and during the discussion at any meeting of a budget-estimate, no business shall be transacted and no substantive proposition shall be made or discussed which does not directly relate to the business for which the urgent meeting was called, or to the budget-estimate, as the case may be; and no proposition involving any change in the taxes which the standing committee propose to impose, or an increase or decrease of any item of expenditure in a budget-estimate, shall be made or discussed at any meeting at which such budget-estimate is under consideration, unless such proposition is specified in the notice of the meeting published under clause (*j*) or in the supplementary announcement, if any, published under clause (*k*), or unless, in the case of an adjourned meeting, each of the conditions mentioned in the proviso to clause (*n*) has been fulfilled;

(*n*) any meeting may, with the consent of a majority of the councillors present, be adjourned from time to time, but no business shall be transacted and, except as is hereinafter provided, no proposition shall be discussed at any adjourned meeting other than the business and propositions remaining undisposed of at the meeting from which the adjournment took place: Provided that at any adjourned meeting at which a budget-estimate is under consideration a proposition involving any change such as is described in clause (*m*) may be made and discussed, notwithstanding that such proposition is not one remaining undisposed of at the meeting from which the adjournment took place, if each of the following conditions has been fulfilled, namely:—

(*i*) that written notice of such propositions has been given at the meeting from which the adjournment took place;

(*ii*) that the adjournment has been for not less than three clear days; and

(*iii*) that a special announcement of the proposition has been given by the municipal secretary (who shall be bound to give such announcement) in not less than one local daily newspaper not later than the day previous to the adjourned meeting;

(*o*) a minute of the names of the councillors present and of the proceedings at every meeting shall, on the day following the meeting, or as soon thereafter as may be, be drawn up and fairly entered by the municipal secretary in a book to be provided for this purpose, and

shall be signed at, and by the presiding authority of, the next ensuing meeting; and the said minute-book shall at all reasonable times be open at the chief municipal office to inspection by any councillor free of charge, and by any other person on payment of a fee of eight annas;

(*p*) a councillor shall not vote or take part in the discussion of any matter before a meeting in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (*g*) to (*l*), both inclusive, of section 16, or in which he is professionally interested on behalf of a client, principal or other person;

(*q*) every question other than the question whether the standing committee or the Commissioner shall be permitted to bring urgent business before a meeting without notice shall be decided by a majority of votes of the councillors present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes;

(*r*) a declaration by the presiding authority that a proposition has been carried and an entry to that effect in the minute-book shall, unless a poll be demanded at the time of such declaration by not less than four councillors, be conclusive evidence of the fact, without proof of the number of votes given for or against the proposition;

(*s*) when a poll is taken, the vote of each councillor present and voting upon the proposition shall be taken by tellers appointed by the presiding authority and the names of the councillors voting respectively for or against the proposition shall be recorded in the minute-book;

(*t*) the Commissioner shall have the same right of being present at a meeting of the corporation and of taking part in the discussions thereat as a councillor, and with the consent of a majority of the councillors present, ascertained by a show of hands, without discussion, may at any time make a statement or explanation of facts, but he shall not be at liberty to vote upon, or to make, any proposition at such meeting.

President of the Corporation.

Appointment of

37. (*1*) The corporation shall at their first meeting in each official year appoint one of their own number to be president until the first meeting of the

corporation in the next following official year, unless the councillors in the meantime retire from office, and then until the day for retirement. president of the corporation.

(2) Any councillor who ceases to be president shall be re-eligible.

(3) If any casual vacancy occurs in the office of president of the corporation, the corporation shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy, and every president so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

Committees.

38. The corporation may from time to time appoint out of their own body such and so many committees consisting of such number of persons, and may refer to such committees, for inquiry and report or for opinion, such special subjects relating to the purposes of this Act as they shall think fit. Appointment of consultative committees for special purposes.

39. (1) It shall be the duty of the corporation and of Government each to appoint four members of a Joint Schools Committee of eight members, for the purpose of giving effect to the provisions as to primary education hereinafter enacted. Appointment by the corporation and by Government of a Joint Schools Committee for purposes of primary education.

(2) [a]The members [a]duly appointed may perform all the functions legally pertaining to the committee, notwithstanding any default, delay or defect in the appointment of any member.

(3) [a]The two senior members shall retire at the end of each calendar year, and two shall be appointed or re-appointed by Government or by the corporation, whereof each shall appoint to the place vacated by any member previously appointed by itself, whether such vacancy have arisen as aforesaid or by death or resignation of the member.

(4) The names of all persons appointed to be members of the said committee shall be published by the municipal secretary in the Bombay Government Gazette.

(5) The Joint Schools Committee shall, by election from amongst its own members, appoint one member to be chairman for the current term of his office or for any shorter period. The chairman so appointed shall preside

[a] Portion repealed by Act XVI of 1895 is omitted.

and, in his absence, the senior member according to date of first appointment or, in case of equality of date, the member whose name appears first in the list published in the Bombay Government Gazette shall preside at meetings of the committee. He shall have a vote and, in case of equal division, a casting vote.

(*6*) The corporation shall provide for the Joint Schools Committee a competent secretary and such clerks and messengers as shall be necessary. It shall also supply the committee with accommodation, stationery and the other material requisites for the due discharge of its duties on the requisition of the chairman, signified by him, by any member of the committee, or by the secretary.

(*7*) The Joint Schools Committee shall administer the school-fund hereinafter defined and prescribed and shall provide thereout for the accommodation and maintenance of primary schools which at any time vest wholly or partly in the corporation and for otherwise aiding primary education in accordance with bye-laws duly made under section 461, and with rules made or approved by Government in this behalf.

(*8*) An order signed by the chairman of the said committee shall be sufficient warrant for the disbursement by any person holding the school-fund, or any part thereof, of any sum thereout in accordance with such order.

(*9*) The Joint Schools Committee shall appoint and remove masters, teachers and other persons employed in the primary schools maintained out of the school-fund, and shall direct and control the instruction given in such schools and the terms and conditions of such instruction, and annex to the aid given to other primary schools such terms as shall seem expedient, subject always to bye-laws duly made under section 461 and to rules made or approved by Government in this behalf.

(*10*) The Joint Schools Committee may, by a bye-law duly made under section 461, be invested with the powers and duties of any authority constituted under this Act, in so far as shall be necessary or expedient in order to the fulfilment of the functions imposed on such committee as contemplated in this section and in section 61, clause (*q*), and, to the extent to which such committee is invested as aforesaid, the powers and duties of the said authority shall be in abeyance, save as so vested and exercised accordingly.

Committee may be appointed for other educational purposes.

40. The corporation may, for the purpose of giving effect to measures and arrangements in furtherance of secondary education or any branch of technical or other instruction, appoint or join in appointing a committee in the manner described in the last preceding section or as may be determined by any bye-law

made under section 461, and such committee shall have in relation to the branch of education and the institutions for which it is appointed the like powers and duties as are herein assigned to the Joint Schools Committee, save as the same may be varied by any bye-law made under the said section.

Appointment of Hospital Committee.

41. The corporation, either singly or in concurrence with Government, may appoint a Hospital Committee with such constitution, powers and duties with respect to hospitals and institutions for the benefit of the aged, sick and infirm, vesting wholly or partly in the corporation and supported or aided out of its funds, as may be defined and provided by bye-laws made under section 461 or by any agreement made with Government in this behalf.

(*B*) *The Standing Committee.*

Constitution of standing committee.

42. The standing committee shall consist of twelve councillors, eight appointed by the corporation and four by Government.

Members of the standing committee when to be appointed.

43. (*1*) The corporation shall at their first meeting in the month of April, after general elections, appoint eight persons out of their own body to be members of the standing committee.

(*2*) Four other councillors shall be appointed by Government to be members of the standing committee within one week after such appointment by the corporation.

Appointment of chairman of standing committee.

44. (*1*) The standing committee shall at their first meeting in each official year appoint one of their own number to be their chairman until the first meeting of the said committee in the next following official year.

(*2*) A member of the standing committee who ceases to be chairman shall be re-eligible.

(*3*) If any casual vacancy occurs in the office of chairman, the standing committee shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy, and every chairman so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

Members of the standing committee to retire by rotation.

45. (*1*) One-half of the members of each standing committee appointed by the corporation and one-half of those appointed by Government, the selection of the said members being made by lot at such time previous to the first day of March and in such manner as the chairman shall determine, shall retire from office at noon on the first day of April next following the date of their appointment.

(*2*) The remaining members of the standing committee shall retire from

office at noon on the first day of April next following the first day of April aforesaid.

Appointment of members of standing committee to replace those who retire.

46. (*1*) The corporation shall at their ordinary meeting in the month of March appoint fresh members of the standing committee to fill the offices of those previously appointed by them who retire from time to time as aforesaid, and, within one week after any such appointment by the corporation, Government shall appoint fresh members to fill the offices of those previously appointed by them who retire as aforesaid.

(*2*) Any councillor who ceases to be a member of the standing committee shall be re-eligible.

Casual vacancies in the standing committee how to be filled up.

47. In the event of non-acceptance of office by a councillor appointed to be a member of the standing committee or of the death, resignation or disqualification of a member of the said committee or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment by the corporation or by Government, as the case may be, of a person thereto, who shall hold office so long only as the member in whose place he is appointed would have been entitled to hold it, if the vacancy had not occurred.

Each standing committee to continue in office till a new committee is appointed.

48. The standing committee in existence on the day for the retirement of councillors shall continue to hold office until such time as a new standing committee is appointed under section 43, notwithstanding that the members of the said committee or some of them may no longer be councillors.

Provisions regulating the proceedings of the standing committee.

49. The standing committee shall meet for the despatch of business in the chief municipal office and may, from time to time, make such regulations with respect to such meetings and with respect to the scrutiny of the municipal accounts as they think fit, subject to the following conditions:—

(*a*) there shall be a meeting of the standing committee once a week, and at such other times as shall be found necessary;

(*b*) the first meeting of each standing committee shall be held on a day and at a time to be fixed by the Commissioner, and if not held on that day shall be held on some subsequent day to be fixed by the Commissioner; and every subsequent meeting of the standing committee shall be held on such day and at such time as the said committee from time to time determine;

(*c*) the chairman of the standing committee shall, upon a written requisition signed by the Commissioner, call a special meeting of the said committee within twenty-four hours for the transaction of any

business which, in the opinion of the Commissioner, cannot be delayed until the next ordinary meeting of the said committee;

(*d*) no business shall be transacted at a meeting of the standing committee unless at least six members are present from the beginning to the end of such meeting;

(*e*) every meeting of the standing committee shall be presided over by the chairman, if the chairman is present at the time appointed for holding the meeting, and, if the chairman is absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion;

(*f*) every question shall be decided by a majority of votes of the members of the standing committee present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes;

(*g*) subject to any bye-laws in this behalf made under clause (*t*) of section 461, the standing committee may from time to time, by a specific resolution in this behalf, delegate any of their powers or duties to sub-committees consisting of such members of the said committee not less in number than three on each sub-committee, as they think fit; and any sub-committee so formed shall conform to any instructions that may from time to time be given to them by the standing committee, and the said committee may at any time discontinue or alter the constitution of any sub-committee so formed;

(*h*) a sub-committee, may elect a chairman of their meetings, and, if no such chairman is elected or if he is not present at the time appointed for holding any meeting, the members of the sub-committee present shall choose one of their number to be chairman of such meeting;

(*j*) sub-committees may meet and adjourn as they think proper, but the chairman of the standing committee may, whenever he thinks fit and shall, upon the written request of not less than two members of a sub-committee, call a special meeting of such sub-committee;

(*k*) questions at any meeting of a sub-committee shall be decided by a majority of votes of the members present and, in case of an equality of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the sub-committee are present from the beginning to the end thereof

(*l*) a minute shall be kept by the municipal secretary of the names of the members present and of the proceedings at each meeting of the standing committee and at each sub-committee's meetings in a book to be provided for this purpose, which shall be signed at, and by the presiding authority of, the next ensuing meeting;

(*m*) a member of the standing committee shall not vote or take part in the discussion before the said committee or before any sub-committee of any matter in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (*g*) to (*l*), both inclusive, of section 16, or in which he is professionally interested on behalf of a client, principal or other person;

(*n*) the Commissioner shall have the same right of being present at a meeting of the standing committee and of taking part in the discussions thereat as a member of the said committee, but he shall not be at liberty to vote upon, or make, any proposition at such meeting.

Fees payable to members of the standing committee.

50. Every member of the standing committee shall be entitled to receive a fee of thirty rupees for each meeting of the said committee at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: Provided that no more than one fee shall be paid to any member for his attendance at all such meetings in any one week.

Provisions regarding validity of Proceedings.

Vacancy in corporation, etc., not to invalidate their proceedings.

51. No act or proceeding of the corporation or of the standing committee or of any committee or sub-committee appointed under this Act shall be questioned on account of any vacancy in their body.

Proceedings of corporation, etc., not vitiated by disqualification, etc., of members thereof.

52. No disqualification of, or defect in, the election or appointment of any person acting as a councillor or as the president or presiding authority of the corporation or as the chairman or as a member of the standing committee or of any committee or sub-committee appointed under this Act shall be deemed to vitiate any act or proceeding of the corporation or standing committee or of any such committee or sub-committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act.

Proceedings of meetings to

53. Until the contrary is proved, every meeting of the corporation or standing committee or of a committee or sub-committee in respect of the

proceedings whereof a minute has been made and signed in accordance with this Act shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are proceedings of a committee or sub-committee such committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute. be deemed to be good and valid until the contrary is proved.

(*C*) *The Municipal Commissioner.*

54. (*1*) The Municipal Commissioner for the City of Bombay shall be from time to time appointed by the Governor in Council for a renewable period of three years. Appointment of the Commissioner.

(*2*) But he shall be forthwith removed by Government from office if at a meeting of the corporation not less than forty-five councillors shall vote in favour of a proposition in this behalf; and he may be removed by the Governor in Council at any time if it shall appear to the Governor in Council that he is incapable of performing the duties of his office, or has been guilty of any misconduct or neglect which renders his removal expedient.

Deputy Municipal Commissioner.

55. (*1*) Subject to confirmation by the Governor in Council, the corporation may at any time and from time to time appoint a person to be a Deputy Municipal Commissioner, if it shall appear to it expedient so to do. Appointment of a Deputy Municipal Commissioner.

(*2*) Every person so appointed shall be subject to the same liabilities, restrictions and conditions to which the Commissioner is subject.

56. (*1*) A Deputy Commissioner so appointed shall be subordinate to the Commissioner and, subject to his orders, shall exercise such of the powers and perform such of the duties of the Commissioner as the Commissioner shall from time to time depute to him: Functions of a Deputy Commissioner.

(*2*) Provided that—

(*a*) it shall not be lawful for a Deputy Commissioner to appear in the Commissioner's stead at any meeting of the corporation or standing committee or to exercise thereat any right or power of the Commissioner;

(*b*) the Commissioner shall inform the corporation of the powers and duties which he from time to time deputes to a Deputy Commissioner.

(*3*) All acts and things performed and done by a Deputy Commissioner, during his tenure of the said office and in virtue thereof, shall for all purposes be deem to have been performed and done by the Commissioner.

Remuneration of Commissioner and Deputy Commissioner.

Salary of the Commissioner to be fixed by Government.

57. (*1*) The Commissioner shall receive such monthly salary, not exceeding rupees two thousand five hundred and not less than rupees two thousand as Government shall from time to time determine, in return wherefor he shall, except as hereinafter provided, devote his whole time and attention to the duties of his office as prescribed in this Act or in any other enactment for the time being in force :

Duties which may be undertaken by the Commissioner outside of this Act.

(*2*) Provided that he may at any time—

(*a*) hold the office of a trustee of the port of Bombay ;

(*b*) with the sanction of the corporation, serve or any committee constituted for the purpose of any local inquiry or for the furtherance of any object of local importance or interest.

(*3*) Provided also that, with the approval of the corporation, the monthly salary of a Commissioner, who has held the appointment for a period of not less than three years, may be raised to a sum not exceeding three thousand rupees.

Remuneration of a Deputy Municipal Commissioner.

58. A Deputy Municipal Commissioner shall receive such monthly salary not exceeding rupees fifteen hundred and not less than rupees twelve hundred as the corporation shall from time to time determine.

Provisions for absence of Commissioner or Deputy Commissioner on leave.

Grant of leave of absence to the Commissioner or Deputy Commissioner.

59. (*1*) Leave of absence may be granted, from time to time—

(*a*) to the Commissioner, by the Governor in Council, with the assent of the standing committee ;

(*b*) to a Deputy Commissioner, by the corporation.

Allowance whilst absent on leave.

(*2*) The allowance to be paid to the Commissioner or to a Deputy Commissioner whilst so absent on leave shall be of such amount, not exceeding respectively the amount of the salary of the Commissioner or Deputy Commissioner, as shall be fixed by the Governor in Council or the corporation, respectively : Provided that, if the Commissioner or Deputy Commissioner is a Government officer, the amount of such allowance shall be regulated by the rules at the time in force relating to the leave allowances of officers of his class.

Appointment and remuneration of acting Commissioner or acting Deputy Commissioner.

(*3*) During any absence of the Commissioner or of a Deputy Commissioner the Governor in Council or the corporation may appoint a person to act as Commissioner or as Deputy Commissioner, as the case may be. Every person so appointed shall exercise the powers and perform the duties conferred and imposed by this Act or by any other enactment at the time in force on the person for whom he is appointed to act, and shall be subject to the same lia-

bilities, restrictions and conditions to which the said person is liable, and shall receive such monthly salary, within the limits prescribed in sections 57 and 58 for a Commissioner and a Deputy Commissioner, as Government or the corporation, respectively, shall determine.

Disqualifications of the Commissioner and Deputy Commissioner.

Commissioner and Deputy Commissioner not to be interested in any contract, etc., with the corporation.

60. (*1*) No person shall be qualified to be appointed or to be Commissioner or a Deputy Commissioner who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of the corporation or in any employment with, by or on behalf of the corporation other than as Commissioner or Deputy Commissioner, as the case may be.

(*2*) Any Commissioner or Deputy Commissioner who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid shall cease to be Commissioner or a Deputy Commissioner, as the case may be, and his office shall become vacant.

(*3*) Nothing in this section shall apply to any such share or interest in any contract or employment with, by or on behalf of the corporation as, under clauses (*h*) and (*k*) of section 16, it is permissible for a councillor to have without his being thereby disqualified for being a councillor.

CHAPTER III.

Duties and Powers of the Municipal Authorities.

Obligatory and Discretionary Duties of the Corporation.

Matters to be provided for by the corporation.

61. It shall be incumbent on the corporation to make adequate provision, by any means or measures which it is lawfully competent to them to use or to take, for each of the following matters, namely :—

(*a*) the construction, maintenance and cleansing of drains and drainage works, and of public latrines, urinals and similar conveniences;

(*b*) the construction and maintenance of works and means for providing a supply of water for public and private purposes;

(*c*) scavenging and the removal and disposal of excrementitious and other filthy matter, and of all ashes, refuse and rubbish;

(*d*) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances;

(*e*) the regulation of places for the disposal of the dead and the provision of new places for the said purpose;